

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 43, “Assessments and Refunds,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

These amendments are proposed as a result of 2011 Iowa Acts, Senate Files 302, 361, 514, 517, 521 and 533, and 2011 Iowa Acts, House File 672.

Items 1, 2 and 3 amend subrules 42.19(1) and 42.19(3) and the implementation clause for rule 701—42.19(404A,422) to provide for changes to the types of properties and rehabilitation costs eligible for the historic preservation and cultural and entertainment district tax credit for Iowa individual income tax.

Items 4 and 5 amend rule 701—42.24(15E,422) to provide for changes in the aggregate amount of endow Iowa tax credits available for 2011 and subsequent calendar years for Iowa individual income tax.

Items 6 and 7 amend subrule 42.27(1) and the implementation clause for rule 701—42.27(422,476B) to provide for changes in the maximum amount of nameplate capacity eligible for the wind energy production tax credit for Iowa individual income tax.

Item 8 amends subrule 42.28(1) to provide for changes in both the maximum amount of nameplate capacity and the placed-in-service date for facilities eligible for the renewable energy tax credit for Iowa individual income tax.

Item 9 amends subrule 42.28(2) to provide that renewable energy used for on-site consumption by the producer is eligible for the renewable energy tax credit for Iowa individual income tax.

Item 10 amends the implementation clause for rule 701—42.28(422,476C).

Items 11 and 12 amend subrule 42.32(4) and the implementation clause for rule 701—42.32(422) to provide for changes in the aggregate amount of school tuition organization tax credits available for 2012 and subsequent calendar years for Iowa individual income tax.

Items 13 and 14 amend subrule 42.41(1) and the implementation clause for rule 701—42.41(15,422) to provide for changes in the aggregate amount of redevelopment tax credits available for fiscal years beginning on or after July 1, 2011, for Iowa individual income tax.

Item 15 amends rule 701—42.44(422) to update the listing regarding the sequence of tax credits to be deducted for Iowa individual income tax.

Item 16 rescinds subrule 43.4(3), which is an obsolete rule regarding the domestic abuse services checkoff for individual income tax that has not been on an Iowa tax return since 1999.

Items 17, 18 and 19 amend subrules 43.4(4), 43.4(10) and 43.4(11) to reflect the corrected name of the State Fair Foundation Fund tax checkoff for Iowa individual income tax.

Item 20 amends rule 701—52.12(422) to update the listing regarding the sequence of tax credits to be deducted for Iowa corporation income tax.

Items 21 to 24 amend rule 701—52.18(422) to provide for changes to the types of properties and rehabilitation costs eligible for the historic preservation and cultural and entertainment district tax credit for Iowa corporation income tax. This is similar to the changes in Items 1, 2 and 3.

Items 25 to 27 amend rule 701—52.23(15E) to provide for changes in the aggregate amount of endow Iowa tax credits available for 2011 and subsequent calendar years for Iowa corporation income tax. This is similar to the change in Item 4.

Items 28 and 29 amend subrule 52.26(1) and the implementation clause for rule 701—52.26(422,476B) to provide for changes in the maximum amount of nameplate capacity eligible for the wind energy production tax credit for Iowa corporation income tax. This is similar to the change in Items 6 and 7.

Item 30 amends subrule 52.27(1) to provide for changes in both the maximum amount of nameplate capacity and placed-in-service date for facilities eligible for the renewable energy tax credit for Iowa corporation income tax. This is similar to the change in Item 8.

Item 31 amends subrule 52.27(2) to provide that renewable energy used for on-site consumption by the producer is eligible for the renewable energy tax credit for Iowa corporation income tax. This is similar to the change in Item 9.

Item 32 amends the implementation clause for rule 701—52.27(422,476C).

Items 33 and 34 amend subrule 52.38(1) and the implementation clause for rule 701—52.38(422) to provide for changes in the aggregate amount of school tuition organization tax credits available for 2012 and subsequent calendar years for Iowa corporation income tax. This is similar to the change in Item 11.

Items 35 and 36 amend subrule 52.39(1) and the implementation clause for rule 701—52.39(15,422) to provide for changes in the aggregate amount of redevelopment tax credits available for fiscal years beginning on or after July 1, 2011, for Iowa corporation income tax. This is similar to the change in Item 13.

Items 37 to 39 amend rule 701—58.13(15E) to provide for changes in the aggregate amount of endow Iowa tax credits available for 2011 and subsequent calendar years for Iowa franchise income tax. This is similar to the change in Items 4 and 26.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than November 7, 2011, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 25, 2011. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 25, 2011.

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses in the state of Iowa.

These amendments are intended to implement Iowa Code section 15E.305 as amended by 2011 Iowa Acts, Senate File 302; section 422.12D as amended by 2011 Iowa Acts, Senate File 361; section 15.293A as amended by 2011 Iowa Acts, Senate File 514; sections 404A.1 through 404A.4 as amended by 2011 Iowa Acts, Senate Files 517 and 521; section 422.11S as amended by 2011 Iowa Acts, Senate File 533; and sections 476B.5 and 476C.1 through 476C.5 as amended by 2011 Iowa Acts, House File 672.

The following amendments are proposed.

ITEM 1. Amend subrule 42.19(1) as follows:

42.19(1) *Eligible properties for the historic preservation and cultural and entertainment district tax credit.* The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

a. Property verified as listed on the National Register of Historic Places or eligible for such listing ~~through the state historic preservation office (SHPO).~~

b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation ~~by being located in an area previously surveyed and evaluated as eligible for the National Register of Historic Places.~~

c. Property or district designated as a local landmark by a city or county ordinance.

d. Any barn constructed prior to 1937.

ITEM 2. Amend subrule **42.19(3)**, first unnumbered paragraph, as follows:

In the case of commercial property, qualified rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation. In the case of residential property or barns, the qualified rehabilitation costs must equal at least \$25,000 or 25 percent of the ~~fair market~~ assessed value, excluding the value of the land, prior to the rehabilitation, whichever amount is less. ~~In computing the tax credit for eligible property that is classified as residential or as commercial with multifamily residential units, the rehabilitation costs shall not exceed \$100,000 per residential unit. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project completion date commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service. The rehabilitation period may include dates that precede approval of a project, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project are qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code costs.~~

ITEM 3. Amend rule **701—42.19(404A,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ Files 517 and 521, and Iowa Code section 422.11D.

ITEM 4. Amend rule **701—42.24(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 ~~and subsequent calendar years~~ is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For example, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 5. Amend rule **701—42.24(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.305 as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ 302, and section 422.11H.

ITEM 6. Amend subrule **42.27(1)**, first unnumbered paragraph, as follows:

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed ~~450~~ 50 megawatts. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

ITEM 7. Amend rule **701—42.27(422,476B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476B as amended by 2009 2011 Iowa Acts, Senate House File 456 672.

ITEM 8. Amend subrule 42.28(1) as follows:

42.28(1) *Application and review process for the renewable energy tax credit.* A producer or purchaser of a renewable energy facility must be approved by the Iowa utilities board in order to qualify for the renewable energy credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, ~~2012~~ 2015.

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed ~~330~~ 363 megawatts. The maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of ~~20~~ 53 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. Extensions can be renewed for succeeding 12-month periods if the facility applies for the extension prior to expiration of the current extension period. A producer of renewable energy, who is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility.

A producer or purchaser of a renewable energy facility must apply to the utilities board for the renewable energy tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.21(1).

ITEM 9. Amend subrule 42.28(2) as follows:

42.28(2) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents per 1000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months.

EXAMPLE: A qualified wind energy production facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity generated and purchased or used for on-site consumption by the producer between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours, standard cubic feet or British thermal units that are purchased from an eligible facility by a related person. Persons shall be treated as related to each other if either person owns an 80 percent or more equity interest in the other person.

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 42.28(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 42.28(1). In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution, or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a renewable energy facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and purchased or used for on-site consumption by the producer between April 1, 2006, and March 31, 2016. Tax credit certificates cannot be issued for renewable energy purchased or produced for on-site consumption after December 31, ~~2021~~ 2024.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

ITEM 10. Amend rule ~~701—42.28(422,476C)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476C as amended by ~~2009~~ 2011 Iowa Acts, ~~Senate File 456 and House File 840~~ 672.

ITEM 11. Amend paragraph ~~42.32(4)~~“a” as follows:

a. By December 1 of each year, the department will authorize school tuition organizations to issue tax credit certificates for the following tax year. For the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, will authorize school tuition organizations to issue tax credit certificates for the 2006 calendar year only. The total amount of tax credit certificates that may be authorized is \$2.5 million for the 2006 calendar year, \$5 million for the 2007 calendar year, ~~and~~ \$7.5 million for the 2008 through 2011 calendar years, and \$8.75 million for 2012 and subsequent calendar years.

ITEM 12. Amend rule **701—42.32(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11S as amended by 2011 Iowa Acts, Senate File 533.

ITEM 13. Amend subrule 42.41(1) as follows:

42.41(1) Eligibility for the credit. ~~The Iowa department of economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. Investments in brownfield or grayfield sites must be made on or after January 1, 2009, but before June 30, 2010, to be eligible for the tax credit. The maximum amount of tax credits that can be issued for redevelopment projects is \$1 million in the aggregate, and the amount of credits for any one redevelopment project cannot exceed \$100,000. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For the fiscal year beginning July 1, 2011, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000.~~

ITEM 14. Amend rule **701—42.41(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 15.293A as amended by 2011 Iowa Acts, Senate File 514, and section 422.11V.

ITEM 15. Amend rule 701—42.44(422) as follows:

701—42.44(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, and 422.110 shall be deducted in the following sequence:

1. Personal exemption credit.
2. Tuition and textbook credit.
3. Nonresident and part-year resident credit.
4. Franchise tax credit.
5. S corporation apportionment credit.
6. Disaster recovery housing project tax credit.
7. School tuition organization tax credit.
8. Venture capital credit tax credits (excluding redeemed Iowa fund of funds tax credit).
9. Endow Iowa tax credit.
10. Agricultural assets transfer tax credit.
11. Film qualified expenditure tax credit.
12. Film investment tax credit.
13. Redevelopment tax credit.
14. Investment tax credit.
15. Wind energy production tax credit.
16. Renewable energy tax credit.
17. ~~New jobs credit.~~ Redeemed Iowa fund of funds tax credit.
18. ~~Economic development region revolving fund tax credit.~~ New jobs tax credit.
19. ~~Charitable conservation contribution tax credit.~~ Economic development region revolving fund tax credit.
20. ~~Alternative minimum tax credit.~~ Charitable conservation contribution tax credit.
21. ~~Historic preservation and cultural and entertainment district tax credit.~~ Alternative minimum tax credit.
22. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit.~~ Historic preservation and cultural and entertainment district tax credit.
23. ~~Research activities credit.~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
24. ~~Assistive device credit.~~ Research activities tax credit.
25. Out-of-state tax credit.
26. Child and dependent care credit or early childhood development tax credit.
27. Motor fuel credit.

28. Claim of right credit (if elected in accordance with rule 701—38.18(422)).
29. Wage-benefits tax credit.
30. Soy-based cutting tool oil tax credit.
31. Refundable portion of investment tax credit, as provided in subrule 42.14(2).
32. E-85 gasoline promotion tax credit.
33. Biodiesel blended fuel tax credit.
34. Soy-based transformer fluid tax credit.
35. ~~Earned income tax credit.~~ E-15 plus gasoline promotion tax credit.
36. ~~Estimated payments, payment with vouchers and withholding tax.~~ Earned income tax credit.
37. ~~Estimated payments, payment with vouchers and withholding tax.~~

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 422.11B, ~~422.11C~~, 422.11D, ~~422.11E~~, 422.11F, ~~422.11G~~, 422.11H, ~~422.11I~~, 422.11J, ~~422.11K~~, ~~422.11L~~, 422.11M, 422.11N, 422.11O, 422.11P, 422.11Q, ~~422.11R~~, 422.11S, 422.11T, 422.11U, 422.11W, 422.11X, 422.12, 422.12B and 422.12C and 2011 Iowa Acts, Senate File 531, section 35.

ITEM 16. Rescind and reserve subrule **43.4(3)**.

ITEM 17. Amend subrule 43.4(4) as follows:

43.4(4) *State fair foundation fund checkoff.* For tax years beginning on or after January 1, 1993, a taxpayer filing a state individual income tax return can designate a checkoff of \$1 or more to the foundation fund of the Iowa state fair foundation. If the overpayment on the return or the payment made with the filing of the return is not sufficient to cover the amount designated to the ~~state fair~~ foundation fund checkoff, the amount credited to the ~~state fair~~ foundation fund checkoff will be reduced accordingly. The designation to the ~~state fair~~ foundation fund checkoff is irrevocable.

A designation to the ~~state fair~~ foundation fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, and the Iowa fish and game protection fund checkoff ~~and the domestic abuse services checkoff~~ are satisfied.

On or before January 31 of the year following the year in which returns with the ~~state fair~~ foundation fund checkoff are due, the department of revenue shall transfer the total amount designated to the ~~state fair foundation to the state fair foundation fund~~.

ITEM 18. Amend subrule **43.4(10)**, first unnumbered paragraph, as follows:

A designation to the child abuse prevention program fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff and the state fair foundation fund checkoff are satisfied.

ITEM 19. Amend subrule **43.4(11)**, first unnumbered paragraph, as follows:

A designation to the joint veterans trust fund and volunteer fire fighter preparedness fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the state fair foundation fund checkoff and the child abuse prevention program fund checkoff are satisfied.

ITEM 20. Amend rule 701—52.12(422) as follows:

701—52.12(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be deducted in the following sequence.

1. Franchise tax credit.
2. Disaster recovery housing project tax credit.
3. School tuition organization tax credit.
4. Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
5. Endow Iowa tax credit.
6. Agricultural assets transfer tax credit.
7. Film qualified expenditure tax credit.
8. Film investment tax credit.
9. Redevelopment tax credit.
10. Investment tax credit.
11. Wind energy production tax credit.
12. Renewable energy tax credit.
13. ~~New jobs credit.~~ Redeemed Iowa fund of funds tax credit.
14. ~~Economic development region revolving fund tax credit.~~ New jobs tax credit.
15. ~~Charitable conservation contribution tax credit.~~ Economic development region revolving fund tax credit.
16. ~~Alternative minimum tax credit.~~ Charitable conservation contribution tax credit.
17. ~~Historic preservation and cultural and entertainment district tax credit.~~ Alternative minimum tax credit.
18. ~~Corporate tax credit for certain sales tax paid by developer.~~ Historic preservation and cultural and entertainment district tax credit.
19. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit.~~ Corporate tax credit for certain sales tax paid by developer.
20. ~~Research activities credit.~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
21. ~~Assistive device credit.~~ Research activities tax credit.
22. ~~Motor fuel credit.~~ Assistive device tax credit.
23. ~~Wage benefits tax credit.~~ Motor fuel credit.
24. ~~Soy-based cutting tool oil tax credit.~~ Wage-benefits tax credit.
25. ~~Refundable portion of investment tax credit, as provided in subrule 52.10(4).~~ Soy-based cutting tool oil tax credit.
26. ~~E-85 gasoline promotion tax credit.~~ Refundable portion of investment tax credit, as provided in subrule 52.10(4).
27. ~~Biodiesel blended fuel tax credit.~~ E-85 gasoline promotion tax credit.
28. ~~Soy-based transformer fluid tax credit.~~ Biodiesel blended fuel tax credit.
29. ~~Estimated tax and payments with vouchers.~~ Soy-based transformer fluid tax credit.
30. E-15 plus gasoline promotion tax credit.
31. Estimated tax and payment with vouchers.

This rule is intended to implement Iowa Code sections 15.333, 15.335, 422.33, 422.91 and 422.110.

ITEM 21. Amend rule 701—52.18(422), parenthetical implementation statute, as follows:

701—52.18(404A,422) Historic preservation and cultural and entertainment district tax credit.

ITEM 22. Amend subrule 52.18(1) as follows:

52.18(1) *Eligible property for the historic preservation and cultural and entertainment district tax credit.* The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

- a. Property verified as listed on the National Register of Historic Places or eligible for such listing through the state historic preservation office (SHPO).
- b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation by ~~being located in an area previously surveyed and evaluated as eligible for the National Register of Historic Places.~~
- c. Property or district designated as a local landmark by a city or county ordinance.

d. Any barn constructed prior to 1937.

ITEM 23. Amend subrule **52.18(3)**, first unnumbered paragraph, as follows:

In the case of commercial property, qualified rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation. In the case of residential property or barns, the qualified rehabilitation costs must equal at least \$25,000 or 25 percent of the ~~fair-market~~ assessed value, excluding the value of the land, prior to the rehabilitation, whichever amount is less. ~~In computing the tax credit for eligible property that is classified as residential or as commercial with multifamily residential units, the rehabilitation costs are not to exceed \$100,000 per residential unit. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project completion date commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service. The rehabilitation period may include dates that precede approval of a project, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project must be qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code costs.~~

ITEM 24. Amend rule **701—52.18(404A,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ Files 517 and 521, and Iowa Code section 422.33.

ITEM 25. Amend rule 701—52.23(15E), parenthetical implementation statute, as follows:

701—52.23(15E,422) Endow Iowa tax credit.

ITEM 26. Amend rule **701—52.23(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 ~~and subsequent calendar years~~ is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For example, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 27. Amend rule **701—52.23(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.305 as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ 302, and Iowa Code section 422.33.

ITEM 28. Amend subrule **52.26(1)**, first unnumbered paragraph, as follows:

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed ~~150~~ 50 megawatts of nameplate generating capacity. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

ITEM 29. Amend rule **701—52.26(422,476B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476B as amended by ~~2009~~ 2011 Iowa Acts, Senate House File 456 672.

ITEM 30. Amend subrule 52.27(1) as follows:

52.27(1) *Application and review process for the renewable energy tax credit.* A producer or purchaser of a renewable energy facility must be approved by the Iowa utilities board in order to qualify for the renewable energy credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, ~~2012~~ 2015.

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed ~~330~~ 363 megawatts of nameplate generating capacity. The maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of ~~20~~ 53 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. Extensions can be renewed for succeeding 12-month periods if the facility applies for the extension prior to expiration of the current extension period. A producer of renewable energy, which is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility.

A producer or purchaser of a renewable energy facility must apply to the utilities board for the renewable energy tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.21(1).

ITEM 31. Amend subrule 52.27(2) as follows:

52.27(2) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents per 1000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months.

EXAMPLE: A qualified wind energy production facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity generated and purchased or used for on-site consumption by the producer between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours, standard cubic feet or British thermal units that are purchased from an eligible facility by a related person. Persons shall be treated as related to each other if either person owns an 80 percent or more equity interest in the other person.

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit

certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 52.27(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 52.27(1). In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a renewable energy facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and purchased or used for on-site consumption by the producer between April 1, 2006, and March 31, 2016. Tax credit certificates cannot be issued for renewable energy purchased or produced for on-site consumption after December 31, ~~2021~~ 2024.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

ITEM 32. Amend rule ~~701—52.27(422,476C)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476C as amended by ~~2009~~ 2011 Iowa Acts, ~~Senate File 456 and House File 840~~ Senate File 470.

ITEM 33. Amend subrule 52.38(1) as follows:

52.38(1) Amount of tax credit authorized. Of the \$7.5 million of school tuition organization tax credits authorized for ~~the 2009 and subsequent~~ through 2011 calendar years, no more than 25 percent, or \$1,875,000, can be authorized for corporation income tax taxpayers. Of the \$8.75 million of school tuition organization tax credits authorized for 2012 and subsequent calendar years, no more than 25 percent, or \$2,187,500, can be authorized for corporation income taxpayers.

ITEM 34. Amend rule ~~701—52.38(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 as ~~amended by 2009 Iowa Acts, Senate File 470.~~

ITEM 35. Amend subrule 52.39(1) as follows:

52.39(1) Eligibility for the credit. ~~The Iowa department of economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. Investments in brownfield or grayfield sites must be made on or after January 1, 2009, but before June 30, 2010, to be eligible for the tax credit. The maximum amount of tax credits that can be issued for redevelopment projects is \$1 million in the aggregate, and the amount of credits for any one redevelopment project cannot exceed \$100,000. For the fiscal year beginning July 1, 2009,~~

the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For fiscal years beginning July 1, 2011, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000.

ITEM 36. Amend rule **701—52.39(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15.293A as amended by 2011 Iowa Acts, Senate File 514, and section 422.33.

ITEM 37. Amend rule 701—58.13(15E), parenthetical implementation statute, as follows:

701—58.13(15E,422) Endow Iowa tax credit.

ITEM 38. Amend rule **701—58.13(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 ~~and subsequent calendar years~~ is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For example, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 39. Amend rule **701—58.13(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections section~~ 15E.305 ~~and 422.60~~ as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ 302, and section 422.60.